

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

COMPLETE TITLE OF CASE:

ROCKING H. TRUCKING, LLC AND JOHN PAYNE HARRISON, IV,

Respondents

v.

H.B.I.C., LLC MICHELLE ANDERSON AND DAVID FENTON, D.V.M..

Appellants

DOCKET NUMBER WD77733

DATE: APRIL 14, 2015

Appeal From:

Circuit Court of Boone County, MO
The Honorable Jodie C. Asel, Judge

Appellate Judges:

Division Two
Anthony Rex Gabbert, PJ., Karen King Mitchell, J. and Mary R. Russell, Sp. J.

Attorneys:

David L. Knight, Columbia, MO,

Counsel for Appellants

Attorneys:

Ronald Salvatore Ribauda, Ballwin, MO

Counsel for Respondents

**MISSOURI APPELLATE COURT OPINION SUMMARY
MISSOURI COURT OF APPEALS, WESTERN DISTRICT**

**ROCKING H. TRUCKING, LLC AND JOHN
PAYNE HARRISON, IV,**

Respondents,

v.

**H.B.I.C., LLC MICHELLE ALDERSON AND
DAVID FENTON, D.V.M.,**

Appellants.

WD77733

Boone County

Before Division Two Judges: Anthony Rex Gabbert, PJ., Karen King Mitchell, J. and Mary R. Russell, Sp. J.

H.B.I.C., LLC (HBIC), Michelle Alderson (Alderson), and David Fenton (Fenton) appeal the circuit court's judgment finding Rocking H. Trucking, LLC (Rocking) and John Payne Harrison IV (Harrison) entitled to immediate possession of certain trucks and trailers held by Appellants, damages for a truck and trailer that had been destroyed while in the possession of Appellants, and lost income that Respondents could have generated if Appellants had not denied them possession of the trucks and trailers. Appellants contend that the circuit court erred: (1) in entering judgment for replevin because it was against the weight of the evidence and misapplied the law; (2)a) entering judgment against Fenton and Alderson as individuals in Count I, b) entering judgment for plaintiffs in Count II generally, and c) failing to name who the judgment was against in Count II because there was no substantial evidence to support the judgment, it was against the weight of the evidence, and misapplied the law, and (3) awarding Harrison individual damages and lost income because the court erroneously applied the law of corporations.

AFFIRMED

Division Two holds:

- (1) The circuit court's judgment for replevin was not against the weight of the evidence as the court could have reasonably believed, based on the evidence, that Harrison was the sole owner of Rocking and that Harrison and Rocking were entitled to possession of the property previously held by Rocking and erroneously transferred by Harrison to HBIC.
- (2) The circuit court did not err in entering judgment against Fenton and Alderson as individuals in Count I, and judgment for plaintiffs in Count II, because it can be inferred from the pleadings and the evidence that HBIC, Alderson, and Fenton all maintained possession and control of the disputed property. Appellants waived their claim as to the form of the judgment.

(3) Appellants have no standing to contest the court's award of damages and lost income to both Rocking and Harrison.

Opinion by Anthony Rex Gabbert, Judge

Date: 4/14/15

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